IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

CIVIL APPLICATION NO. 857 OF 2003
IN
SECOND APPEAL NO. 568 OF 2003

Office Notes, Office Memoranda of of Coram, appearances, Court's orders and Registrar's orders : Court's or Judge's orders

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Mr. G.S. Godbole for the applicants.

Mr. P.R. Arjunwadkar for the respondents.

CORAM: P.V. KAKADE, J.

DATED: 23RD SEPT., 2005

P.C.:

1. Heard both sides.

2. This is an application praying that the applicants may be allowed to prosecute the Second Appeal (St.) No. 28778 of 2002 against respondent Nos. 5 to 9 who are legal representatives of deceased original respondent No.3 i.e. Padmabai Nagnath Karpe.

3. The applicants filed this application on the ground that the applicants came to know about the death of respondent No.3 before filing of this second appeal and, therefore, impleaded respondent Nos. 5 to

9 as heirs and legal representatives of deceased original respondent No.3. The applicants further submitted that for this reason they may be allowed to prosecute the appeal against respondent Nos. 5 to 9 as legal heirs of deceased original respondent No.3 as right to sue survives against respondent Nos. 5 to 9.

4. The lelarned counsel for the respondents submitted that there may be a question of abatement involved in this regard and, therefore, he has no objection if the application is allowed keeping the question of abatement open.

In view of this aspect, the application is made absolute in terms of prayer clause (a).

It is hereby clarified that the question of abatement is kept open to be decided at the time of final hearing of the appeal.

With this direction, the application stands

disposed of.

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Mr. P.R. Arjunwadkar for the respondents.

CORAM: P.V. KAKADE, J.
DATED: 23RD SEPT., 2005

P.C.:

1. Heard both sides.

2. This is an application for stay of the judgment and order passed by the lower appellate Court in Civil Appeal No. 72 of 1997. The record shows that, earlier, by order dated 8.9.2003 this Court had stayed the execution of the decree which is a decree for partition and separate possession. The appeal is already admitted and is for hearing. In view of these aspects, the application is made absolute in terms of prayer clause (a) and stands disposed of with no order as to costs.

Parties are at liberty to move the

application for earlier hearing as expressed by them.

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